

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NICE SYSTEMS, INC., and)	
NICE SYSTEMS, LTD.,)	
)	
Plaintiffs,)	
v.)	Civil Action No. 06-311-JJF
)	
WITNESS SYSTEMS, INC.,)	
)	
Defendant.)	

PLAINTIFFS' PROPOSED FORM OF SPECIAL JURY VERDICT

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Dated: December 3, 2007

We, the jury in the above-titled action, find the following special verdict on the questions submitted to us:

VERDICT REGARDING THE '371 PATENT

Question No. 1: Do you find by a preponderance of the evidence that Witness Systems infringed, literally or pursuant to the doctrine of equivalents, any of the following claims of U.S. Patent No. 5,396,371? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems)

Claim 1 Yes ____ No ____

Claim 8 Yes ____ No ____

Question No. 2: If your answer was "Yes" to any part of Question No. 1, do you find by clear and convincing evidence that Witness Systems' infringement was willful? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems on this issue.)

Yes ____ No ____

Question No. 3: Do you find by clear and convincing evidence that any of the following claims of U.S. Patent No. 5,396,371 are invalid? (Answer "Yes" or "No." A "Yes" answer is a finding for the defendant Witness Systems, on this issue; a "No" answer is a finding for the plaintiff, NICE.)

Claim 1 Yes ____ No ____

Claim 8 Yes ____ No ____

DAMAGES FOR INFRINGEMENT OF THE '371 PATENT

If you answered that any claim of the '371 Patent both (i) is infringed (you answered "Yes" in Question No. 1, above) and (ii) is not invalid (you answered "No" for the same claim number in Question No. 3, above), then Witness Systems is responsible for damages caused to NICE. Please proceed to the next question. Otherwise proceed to Verdict Regarding the '005 Patent.

Question No. 4: Do you find that NICE is entitled to damages equaling NICE's lost profits resulting from Witness Systems' infringement of the patent? (Answer "Yes" or "No." A "Yes" answer is a finding for NICE; a "No" answer is a finding for Witness Systems.)

Yes ____ No ____

Question No. 5: What is the total amount of lost profits damages to which NICE is entitled as a result of Witness Systems' infringement of the patent?

Answer: _____

Question No. 6: If you find that NICE is not entitled to lost profits damages for some or all of its damages, what is the total amount of reasonable royalty damages to which NICE is entitled as a result of Witness Systems' infringement of the patent?

Answer: _____

VERDICT REGARDING THE '005 PATENT

Question No. 7: Do you find by a preponderance of the evidence that Witness Systems infringed, literally or pursuant to the doctrine of equivalents, any of the following claims of U.S. Patent No. 5,819,005? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems.)

Claim 1 Yes ____ No ____

Claim 8 Yes ____ No ____

Question No. 8: If your answer was "Yes" to any part of Question No. 7, do you find by clear and convincing evidence that Witness Systems' infringement was willful? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems on this issue.)

Yes ____ No ____

Question No. 9: Do you find by clear and convincing evidence that any of the following claims of U.S. Patent No. 5,819,005 are invalid? (Answer "Yes" or "No." A "Yes" answer is a finding for the defendant Witness Systems, on this issue; a "No" answer is a finding for the plaintiff, NICE.)

Claim 1 Yes ____ No ____

Claim 8 Yes ____ No ____

DAMAGES FOR INFRINGEMENT OF THE '005 PATENT

If you answered that any claim of the '005 Patent both (i) is infringed (you answered "Yes" in Question No. 7, above) and (ii) is not invalid (you answered "No" for the same claim number in Question No. 9, above), then Witness Systems is responsible for damages caused to NICE. Please proceed to the next question. Otherwise proceed to Verdict Regarding the '570 Patent.

Question No. 10: Do you find that NICE is entitled to damages equaling NICE's lost profits resulting from Witness Systems' infringement of the patent? (Answer "Yes" or "No." A "Yes" answer is a finding for NICE; a "No" answer is a finding for Witness Systems.)

Yes ____ No ____

Question No. 11: What is the total amount of lost profits damages to which NICE is entitled as a result of infringement of the patent?

Answer: _____

Question No. 12: If you find that NICE is not entitled to lost profits damages for some or all of its damages, what is the total amount of reasonable royalty damages to which NICE is entitled as a result of Witness Systems' infringement of the patent?

Answer: _____

VERDICT REGARDING THE '570 PATENT

Question No. 13: Do you find by a preponderance of the evidence that Witness Systems infringed, literally or pursuant to the doctrine of equivalents, any of the following claims of U.S. Patent No. 6,249,570? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems.)

Claim 6 Yes ____ No ____

Claim 7 Yes ____ No ____

Question No. 14: If your answer was "Yes" to any part of Question No. 13 do you find by clear and convincing evidence that Witness Systems' infringement was willful? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems on this issue.)

Yes ____ No ____

Question No. 15: Do you find by clear and convincing evidence that any of the following claims of U.S. Patent No. 6,249,570 are invalid? (Answer "Yes" or "No." A "Yes" answer is a finding for the defendant Witness Systems, on this issue; a "No" answer is a finding for the plaintiff, NICE.)

Claim 6 Yes ____ No ____

Claim 7 Yes ____ No ____

DAMAGES FOR INFRINGEMENT OF THE '570 PATENT

If you answered that any claim of the '570 Patent both (i) is infringed (you answered "Yes" in Question No. 13, above) and (ii) is not invalid (you answered "No" for the same claim number in Question No. 15, above), then Witness Systems is responsible for damages caused to NICE. Please proceed to the next question. Otherwise proceed to Verdict Regarding the '345 Patent.

Question No. 16: Do you find that NICE is entitled to damages equaling NICE's lost profits resulting from Witness Systems' infringement of the patent? (Answer "Yes" or "No." A "Yes" answer is a finding for NICE; a "No" answer is a finding for Witness Systems.)

Yes ____ No ____

Question No. 17: What is the total amount of lost profits damages to which NICE is entitled as a result of infringement of the patent?

Answer: _____

Question No. 18: If you find that NICE is not entitled to lost profits damages for some or all of its damages, what is the total amount of reasonable royalty damages to which NICE is entitled as a result of Witness Systems' infringement of the patent?

Answer: _____

VERDICT REGARDING THE '345 PATENT

Question No. 19: Do you find by a preponderance of the evidence that Witness Systems infringed, literally or pursuant to the doctrine of equivalents, any of the following claims of U.S. Patent No. 6,728,345? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems.)

Claim 14 Yes ____ No ____

Claim 40 Yes ____ No ____

Claim 41 Yes ____ No ____

Claim 48 Yes ____ No ____

Question No. 20: If your answer was "Yes" to any part of Question No. 19, do you find by clear and convincing evidence that Witness Systems' infringement was willful? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems on this issue.)

Yes ____ No ____

Question No. 21: Do you find by clear and convincing evidence that any of the following claims of U.S. Patent No. 6,728,345 are invalid? (Answer "Yes" or "No." A "Yes" answer is a finding for the defendant Witness Systems, on this issue; a "No" answer is a finding for the plaintiff, NICE.)

Claim 14 Yes ____ No ____

Claim 40 Yes ____ No ____

Claim 41 Yes ____ No ____

Claim 48 Yes ____ No ____

DAMAGES FOR INFRINGEMENT OF THE '345 PATENT

If you answered that any claim of the '345 Patent both (i) is infringed (you answered "Yes" in Question No. 19, above) and (ii) is not invalid (you answered "No" for the same claim number in Question No. 21, above), then Witness Systems is responsible for damages caused to NICE. Please proceed to the next question. Otherwise proceed to Verdict Regarding the '372 Patent.

Question No. 22: Do you find that NICE is entitled to damages equaling NICE's lost profits resulting from Witness Systems' infringement of the patent? (Answer "Yes" or "No." A "Yes" answer is a finding for NICE; a "No" answer is a finding for Witness Systems.)

Yes ____ No ____

Question No. 23: What is the total amount of lost profits damages to which NICE is entitled as a result of infringement of the patent?

Answer: _____

Question No. 24: If you find that NICE is not entitled to lost profits damages for some or all of its damages, what is the total amount of reasonable royalty damages to which NICE is entitled as a result of Witness Systems' infringement of the patent?

Answer: _____

VERDICT REGARDING THE '372 PATENT

Question No. 25: Do you find by a preponderance of the evidence that Witness Systems infringed, literally or pursuant to the doctrine of equivalents, any of the following claims of U.S. Patent No. 6,775,372? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems.)

Claim 1 Yes ____ No ____

Claim 6 Yes ____ No ____

Claim 14 Yes ____ No ____

Claim 15 Yes ____ No ____

Claim 19 Yes ____ No ____

Claim 33 Yes ____ No ____

Question No. 26: If your answer was "Yes" to any part of Question No. 25 do you find by clear and convincing evidence that Witness Systems' infringement was willful? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems on this issue.)

Yes ____ No ____

Question No. 27: Do you find by clear and convincing evidence that any of the following claims of U.S. Patent No. 6,775,372 are invalid? (Answer "Yes" or "No." A "Yes" answer is a finding for the defendant Witness Systems, on this issue; a "No" answer is a finding for the plaintiff, NICE.)

Claim 1 Yes ____ No ____

Claim 6 Yes ____ No ____

Claim 14 Yes ____ No ____

Claim 15 Yes ____ No ____

Claim 19 Yes ____ No ____

Claim 33 Yes ____ No ____

DAMAGES FOR INFRINGEMENT OF THE '372 PATENT

If you answered that any claim of the '372 Patent both (i) is infringed (you answered "Yes" in Question No. 25, above) and (ii) is not invalid (you answered "No" for the same claim number in Question No. 27, above), then Witness Systems is responsible for damages caused to NICE. Please proceed to the next question. Otherwise proceed to Verdict Regarding the '370 Patent

Question No. 28: Do you find that NICE is entitled to damages equaling NICE's lost profits resulting from Witness Systems' infringement of the patent? (Answer "Yes" or "No." A "Yes" answer is a finding for NICE; a "No" answer is a finding for Witness Systems.)

Yes ____ No ____

Question No. 29: What is the total amount of lost profits damages to which NICE is entitled as a result of infringement of the patent?

Answer: _____

Question No. 30: If you find that NICE is not entitled to lost profits damages for some or all of its damages, what is the total amount of reasonable royalty damages to which NICE is entitled on account of Witness Systems' infringement of the patent?

Answer: _____

VERDICT REGARDING THE '370 PATENT

Question No. 31: Do you find by a preponderance of the evidence that Witness Systems infringed, literally or pursuant to the doctrine of equivalents, any of the following claims of U.S. Patent No. 6,785,370? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems.)

Claim 1 Yes ____ No ____

Claim 9 Yes ____ No ____

Claim 27 Yes ____ No ____

Question No. 32: If your answer was "Yes" to any part of Question No. 31, do you find by clear and convincing evidence that Witness Systems' infringement was willful? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems on this issue.)

Yes ____ No ____

Question No. 33: Do you find by clear and convincing evidence that any of the following claims of U.S. Patent No.6,785,370 are invalid? (Answer "Yes" or "No." A "Yes" answer is a finding for the defendant Witness Systems, on this issue; a "No" answer is a finding for the plaintiff, NICE.)

Claim 1 Yes ____ No ____

Claim 9 Yes ____ No ____

Claim 27 Yes ____ No ____

DAMAGES FOR INFRINGEMENT OF THE '370 PATENT

If you answered that any claim of the '370 Patent both (i) is infringed (you answered "Yes" in Question No. 31, above) and (ii) is not invalid (you answered "No" for the same claim number in Question No. 33, above), then Witness Systems is responsible for damages caused to NICE. Please proceed to the next question. Otherwise proceed to Verdict Regarding the '920 Patent

Question No. 34: Do you find that NICE is entitled to damages equaling NICE's lost profits resulting from Witness Systems' infringement of the patent? (Answer "Yes" or "No." A "Yes" answer is a finding for NICE; a "No" answer is a finding for Witness Systems.)

Yes ____ No ____

Question No. 35: What is the total amount of lost profits damages to which NICE is entitled as a result of infringement of the patent?

Answer: _____

Question No. 36: If you find that NICE is not entitled to lost profits damages for some or all of its damages, what is the total amount of reasonable royalty damages to which NICE is entitled as a result of Witness Systems' infringement of the patent?

Answer: _____

VERDICT REGARDING THE '920 PATENT

Question No. 37: Do you find by a preponderance of the evidence that Witness Systems infringed, literally or pursuant to the doctrine of equivalents, any of the following claims of U.S. Patent No. 6,870,920? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems.)

Claim 1 Yes ____ No ____

Claim 3 Yes ____ No ____

Claim 16 Yes ____ No ____

Claim 18 Yes ____ No ____

Claim 21 Yes ____ No ____

Question No. 38: If your answer was "Yes" to any part of Question No. 37, do you find by clear and convincing evidence, that Witness Systems' infringement was willful? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems on this issue.)

Yes ____ No ____

Question No. 39: Do you find by clear and convincing evidence that any of the following claims of U.S. Patent No.6,870,920 are invalid? (Answer "Yes" or "No." A "Yes" answer is a finding for the defendant Witness Systems, on this issue; a "No" answer is a finding for the plaintiff, NICE.)

Claim 1 Yes ____ No ____

Claim 3 Yes ____ No ____

Claim 16 Yes ____ No ____

Claim 18 Yes ____ No ____

Claim 21 Yes ____ No ____

DAMAGES FOR INFRINGEMENT OF THE '920 PATENT

If you answered that any claim of the '920 Patent both (i) is infringed (you answered "Yes" in Question No. 37, above) and (ii) is not invalid (you answered "No" for the same claim number in Question No. 39, above), then Witness Systems is responsible for damages caused to NICE. Please proceed to the next question. Otherwise proceed to Verdict Regarding the '109 Patent.

Question No. 40: Do you find that NICE is entitled to damages equaling NICE's lost profits resulting from Witness Systems' infringement of the patent? (Answer "Yes" or "No." A "Yes" answer is a finding for NICE; a "No" answer is a finding for Witness Systems.)

Yes ____ No ____

Question No. 41: What is the total amount of lost profits damages to which NICE is entitled as a result of infringement of the patent?

Answer: _____

Question No. 42: If you find that NICE is not entitled to lost profits damages for some or all of its damages, what is the total amount of reasonable royalty damages to which NICE is entitled as a result of Witness Systems' infringement of the patent?

Answer: _____

VERDICT REGARDING THE '109 PATENT

Question No. 43: Do you find by a preponderance of the evidence that Witness Systems infringed, literally or pursuant to the doctrine of equivalents, any of the following claims of U.S. Patent No. 7,010,109? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems.)

Claim 1 Yes ____ No ____

Claim 3 Yes ____ No ____

Claim 6 Yes ____ No ____

Question No. 44: If your answer was "Yes" to any part of Question No. 43, do you find by clear and convincing evidence that Witness Systems' infringement was willful? (Answer "Yes" or "No." A "Yes" answer is a finding for the plaintiff, NICE, on this issue; a "No" answer is a finding for the defendant, Witness Systems on this issue.)

Yes ____ No ____

Question No. 45: Do you find by clear and convincing evidence that any of the following claims of U.S. Patent No. 6,870,920 are invalid? (Answer "Yes" or "No." A "Yes" answer is a finding for the defendant Witness Systems on this issue; a "No" answer is a finding for the plaintiff, NICE.)

Claim 1 Yes ____ No ____

Claim 3 Yes ____ No ____

Claim 6 Yes ____ No ____

DAMAGES FOR INFRINGEMENT OF THE '109 PATENT

If you answered that any claim of the '109 Patent both (i) is infringed (you answered "Yes" in Question No. 43, above) and (ii) is not invalid (you answered "No" for the same claim number in Question No. 45, above), then Witness Systems is responsible for damages caused to NICE. Please proceed to the next question.

Question No. 46: Do you find that NICE is entitled to damages equaling NICE's lost profits resulting from Witness Systems' infringement of the patent? (Answer "Yes" or "No." A "Yes" answer is a finding for NICE; a "No" answer is a finding for Witness Systems.)

Yes ____ No ____

Question No. 47: What is the total amount of lost profits damages to which NICE is entitled as a result of infringement of the patent?

Answer: _____

Question No. 48: If you find that NICE is not entitled to lost profits damages for some or all of its damages, what is the total amount of reasonable royalty damages to which NICE is entitled as a result of Witness Systems' infringement of the patent?

Answer: _____

Respectfully submitted,

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Dated: December 3, 2007

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